

operatively connected to said vacuum pump and a second end operatively attached to said connector tube; and

a first collection vial operatively associated with the vacuum line for removing contaminants transmitted from the vacuum line and a second vial placed in series with the first vial for removing contaminants transmitted from the vacuum line.

### REMARKS

The Examiner has objected the specification and rejected claims 1-7, 9 and 15-21 as failing to comply with 35 U.S.C. §112, first paragraph. The Examiner has also objected to the amendment to the claims of 7/23/04 under 35 U.S.C. §132 as introducing new matter. Claims 1 and 21 are rejected as anticipated by British Patent No. 254,957 to Holt ("Holt") under 35 U.S.C. § 102(b). The Examiner has also rejected claims 2 and 3 as obvious over Holt, rejected claims 4 and 5 as obvious over Holt in view of U.S. Patent No. 4,341,540 to Howerin ("Howerin"), rejected claims 6, 7, 9 and 15-18 as obvious over Holt in view of Marshall *et al.* ("Marshall") in further view of U.S. Patent No. 2,655,147 to Rohrer ("Rohrer") and claims 19 and 20 as obvious over Holt in view of Marshall in view of Rohrer in further view of Howerin. The Examiner also rejected claims 1, 3 and 21 as obvious over U.S. Patent No. 1,025,504 to Birrell ("Birrell") in view of Holt, claims 4 and 5 as obvious over Birrell in view of Holt in view of Howerin, claims 2, 6, 7, 9 and 15-18 as obvious over Birrell in view of Holt in view of Marshall in view of Rohrer, and claims 19 and 20 as obvious over Birrell in view of Holt in view of Howerin.

In this response, claims 1, 2, 4, 15, 17-19 and 21 are amended and claims 3, 8 and 17 are cancelled. Therefore, claims 1, 2, 4-7, 9, 15-19 and 21 remain at issue.

### **I. Interview**

Applicant and the undersigned attorney would like to thank the Examiner for the courtesy of the interview allowed March 4, 2005. At the interview, as reflected in the Interview Summary, Applicant's attorney and the Examiner worked out the above amended claim language of claims 1, 15 and 21 which define the present invention over the cited prior art.

### **II Rejections under 35 U.S.C. §112 and §132**

The Examiner has objected the specification and rejected claims 1-7, 9 and 15-21 as failing to comply with 35 U.S.C. §112, first paragraph. The Examiner has also objected to the amendment to the claims of 7/23/04 under 35 U.S.C. §132 as introducing new matter.

Although Applicant submits that this matter is disclosed within the original specification, Applicant has cancelled the previously added language of the claims in favor of language that the Examiner and the undersigned attorney worked out during the interview of March 4, 2005.

### **III. Claim 1**

Claim 1 stands rejected as anticipated by Holt under 35 U.S.C. § 102(b) and as rendered obvious by Birrell in view of Holt under 35 U.S.C. § 103(a). As amended, claim 1 requires that "the flow from the cavity to the connection tube allowing substantially all of the contaminants to be transmitted substantially unimpeded from the cavity to the connection tube" and "at least one collection vial operatively associated with the vacuum line for removing the contaminants transmitted through the vacuum line."

Neither Holt nor Birrell disclose flow from a cavity of the massage device to a connection tube that allows substantially all of the contaminants to flow unimpeded from the cavity to the connection tube. Holt specifically discloses that plate 28 "will prevent material from being drawn into the air passage". See Holt, page 2, line 63-64. Birrell implements an arm 30 that

selectively blocks off apertures 35 and 36 to create a vibratory function which would impede the flow of contaminants. See Birrell, page 2, lines 43-49.

Because Holt does not disclose "flow from a cavity of the massage device to a connection tube that allows substantially all of the contaminants to flow unimpeded from the cavity to the connection tube" it cannot form the basis of a §102 rejection. Additionally, because Holt discloses the opposite effect, namely that flow from the massage device to a connection tube *is* substantially impeded, it cannot form the basis of an obviousness rejection because Holt does not contain any teaching suggestion of this element, and in fact teaches the opposite.

Additionally, Birrell in view of Holt cannot render the present invention obvious because neither Holt nor Birrell teach that the use of "at least one collection vial operatively associated with the vacuum line for removing the contaminants transmitted through the vacuum line." Instead, Holt discloses the contaminants building up in the head of the device (cup shaped holder 20) (see Holt, page 2, col. 66-69) and Birrell teaches allowing the contaminants to enter a water stream and exit the outlet holes 5 (see Birrell, page 2, lines 74-84). Because neither reference discloses or suggests this element, they cannot alone or in combination render claim 1 obvious for this additional reason.

#### IV. Claim 2

Claim 2 depends from claim 1 and, therefore, includes all of the elements of claim 1. As such, claim 2 is allowable over the prior art of record for the same reason as claim 1.

#### V. Claim 4

Claim 4 was rejected as obvious over Holt in view of Howerin and also as obvious over Birrell in view of Holt in view of Howerin. Amended Claim 4 requires "a second vial for

collecting airborne contaminants operatively associated in said vacuum line, the second vial placed in series connection with the at least one vial."

Neither Birrell nor Holt nor Howerin disclose or suggest the element of a vial in series connection with second vial for collecting contaminants in a vacuum line, not does the Examiner cite Birrell or Holt for this proposition. Howerin discloses a vacuum cleaner accessory that is essentially a chamber within a chamber. The outer chamber has an input and an output such that it can be placed in line with a common vacuum cleaner hose. The inner chamber has apertures in it such that if water is sucked by the vacuum cleaner it will be retained in the outer chamber and will not enter the inner chamber. Therefore, water is not sucked into the vacuum cleaner.

Therefore, Howerin does not disclose two vials connected in series in order to remove contaminants from a vacuum line. As a result, neither Holt, Birrell nor Howerin disclose or suggest an element of amended claim 4 and, therefore, do not render amended claim 4 obvious.

#### **VI. Claim 5**

Claim 5 was rejected based upon the same art as claim 4 and depends from claim 4. Claim 5 adds the element that the vials are removable. None of Holt, Birrell and Howerin discloses vials that are removable. As a result, neither Holt, Birrell nor Howerin disclose or suggest at least one element of claim 5 and, therefore, do not render claim 5 obvious.

#### **VII. Claims 6, 7 and 9**

Claim 6, 7 and 9 each depend from claim 1 and, therefore, include all of the elements of claim 1. As such, claims 6, 7 and 9 are allowable over the prior art of record for the same reasons as claim 1.

**VIII. Claim 15**

Claim 15 stands rejected as rendered obvious by Holt in view of Marshall in view of Rohrer and as rendered obvious by Birrell in view of Holt in view of Marshall in view of Rohrer. As amended, the claim 15 requires that "the flow from the cavity to the connection tube allowing substantially all of the contaminants to be transmitted substantially unimpeded from the cavity to the connection tube" and "at least one collection vial operatively associated with the vacuum line for removing the contaminants transmitted through the vacuum line."

As discussed above with reference to claim 1, neither Birrell nor Holt disclose or suggest these elements. Additionally, neither Rohrer nor Marshall disclose these elements, nor does the Examiner cite these references for any such proposition. As such, claim 15 is allowable for the same reasons as claim 1.

**IX. Claim 16**

Claim 16 depends from claim 15 and, therefore, includes all of the elements of claim 15. As such, claim 16 is allowable over the prior art of record for the same reason as claim 15.

**X. Claim 17**

Claim 17 stands rejected over the same prior art as claims 15 and 16 from which it depends. Amended claim 17 adds the element of "at least one filter disposed within the collection vial that is operatively associated with the vacuum line".

None of Holt, Birrell, Marshall or Rohrer disclose a filter disposed within a collection vial for removing contaminants transmitted through the vacuum line. As such, claim 17 is allowable of the cited art for this additional reason.

**XI. Claim 18**

Claim 18 stands rejected over the same art claims claim 15, 16, and 17, from which claims claim 18 also depends. Amended claim 18 adds the element of the "filter [being] removable from the collection vial".

None of Holt, Birrell, Marshall or Rohrer disclose a removable filter disposed within a collection vial for removing contaminants transmitted through the vacuum line. As such, claim 18 is allowable of the cited art for this additional reason.

**XII. Claim 19**

Claim 19 depends from claim 18 and stands rejected over the same art as applied to claim 18 in further view of Howerin. Amended claim 19 adds the element of "a second vial, connected in series with the first vial, and containing a second filter operatively associated with the vacuum line."

None of Holt, Birrell, Marshall, Rohrer or Howerin disclose a second vial, connected in series with a first vial and containing a second filter. As such, claim 19 is allowable over the cited art for this additional reason.

**XIII. Claim 21**

Claim 21 has been amended to include the limitation of "a first collection vial operatively associated with the vacuum line for removing contaminants transmitted from the vacuum line and a second vial placed in series with the first vial for removing contaminants transmitted from the vacuum line."

As discussed above, none of the cited art of record discloses or suggests the limitation of two vials placed in series to remove contaminants. As such, claim 21 is allowable over the prior art of record as discussed above.

**XIV. Conclusion**

Based on the foregoing, the allowance of claims 1, 2, 4-7, 9, 15-19 and 21 is respectfully requested. If for any reason the Examiner is unable to allow the application on the next Office Action, the Examiner is requested to contact the undersigned attorney to discuss the matter.

Respectfully submitted,



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